



PROPERTIES LTD

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PHONE (808) 566-4100 • FAX (808) 566-4110 • E-MAIL: TouchstoneProperties@hawaii.rr.com

August 26, 2004

Public Utilities Commission  
465 S. King St. #103  
Honolulu, HI 96813

PUBLIC UTILITIES  
COMMISSION

2004 AUG 30 A 10:25

FILED

Re: Docket #04-0140, Proposed Sale of Verizon Hawaii

To Whom It May Concern:

I am writing on behalf of Queen Emma Gardens AOAO regarding an on-going dispute with Verizon Hawaii concerning the ownership and repair of telephone conduit lines which service the condominium association.

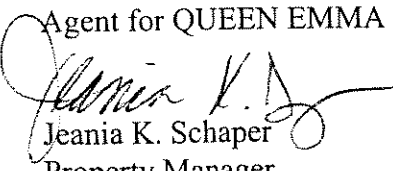
Enclosed is correspondence between Association counsel Richard Ekimoto and Verizon Hawaii regarding this matter. This dispute is over a year old now and the Association has not received adequate, nor prompt responses from Verizon Hawaii.

The Queen Emma Gardens AOAO is concerned that this matter will not be properly settled and will be placed on a "back burner" indefinitely if Verizon Hawaii is sold to another entity. Therefore, it is requested that the Public Utilities Commission require that this issue be resolved prior to any sale of the entity Verizon Hawaii.

Your assistance ensuring that this matter is reviewed is appreciated. Please contact me at 566-4100 should you have any questions.

Sincerely,

TOUCHSTONE PROPERTIES LTD.  
Agent for QUEEN EMMA GARDENS AOAO

  
Jeania K. Schaper  
Property Manager

cc: Board of Directors  
Richard Ekimoto, Esq.

# Elisha Ekimoto & Harada

Attorneys At Law

A Law Corporation

G. Stephen Elisha  
Richard S. Ekimoto  
Arlette S. Harada

Sandy S. Ma

August 11, 2004

RECEIVED  
AUG 12 2004

LOCKSTONE PROPERTIES, LTD.

Ms. Lynette Yoshida  
Verizon Hawaii, Inc.  
P.O. Box 2200  
Honolulu, Hawaii 96841

*Send a copy  
to BUC  
re: sale  
Carlisle Gumb.*

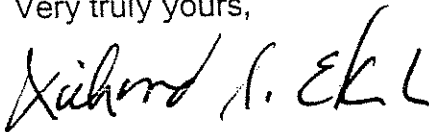
Re: AOAO Queen Emma Gardens Telephone System

Dear Ms. Yoshida:

This letter is a follow-up of our letter dated July 28, 2003 regarding the above captioned matter. We have not received a response to our letter. We have enclosed a copy of our letter for your reference. Can you please confirm that our proposal regarding the conduits are acceptable? In addition, you have still not provided us with the information regarding the cost of providing the wiring plans. We would like to remind you that you are required to provide the plans pursuant to Federal Regulations. Please provide the information at your earliest convenience.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,



RICHARD S. EKIMOTO  
FOR

ELISHA, EKIMOTO & HARADA

RSE:smtw:G:\CLIENT\Q\QUEENEMM.GAR\GM\Verizon Hawaii 081104 ltr re wiring and conduits.wpd

Enclosure

cc: AOAQ Queen Emma Gardens  
c/o Ms. Jeania Schaper ✓

FILED  
2004 AUG 30 A 10:25  
PUBLIC UTILITY  
DIVISION

July 28, 2003

Ms. Lynette Yoshida  
Verizon Hawaii, Inc.  
P.O. Box 2200  
Honolulu, Hawaii 96841

Re: AOAO Queen Emma Gardens Telephone System

Dear Ms. Yoshida:

Thank you for your letter dated June 18, 2003 regarding the above captioned matter. We have divided the issues in your letter into the following sections.

**I. Conduits**

We understand your position to be that you are not responsible for any of the conduits in the Project. We assume that you are also taking the position that you have no ownership interest in the conduits in the Project and the Association can terminate your right to use the conduits if it deems appropriate or advantageous to the Association.

We understand that there is a portion of the conduits located outside the Project. The Association is willing to proceed with the work to locate and repair the leaks in the conduits under the condition that if any leak is located in conduits outside the property line of the Project or caused by Verizon, its employees, agents or vendors, Verizon will pay for the cost of locating and repairing the leaks attributable to Verizon or located outside the property line.

**II. Wiring**

We understand that you are taking the position that the demarcation point for multi-unit buildings in Hawaii is the first jack in each apartment. However, Federal Communications Commission Order FCC 97-209 specifically ruled that:

Our rules state that the demarcation point for existing multiunit installations is to be determined "in accordance with the local carrier's reasonable and

Ms. Lynette Yoshida  
July 28, 2003  
Page 2

nondiscriminatory standard operating practices."<sup>1</sup> We adopted this rule to accommodate multiunit arrangements in existence at the time when our new demarcation point rule went into effect, i.e., August 13, 1990.<sup>2</sup> It appears, however, that some carriers may have imposed new operating practices on existing multiunit premises and then moved demarcation points for those premises to the minimum point of entry without the building owner's permission. The Commission did not intend that carriers establish new operating procedures to govern multiunit buildings existing on August 13, 1990 that would automatically relocate those buildings' demarcation points. We now clarify that the standard operating practices to which Section 68.3(b)(1) refers are those practices in effect on August 13, 1990. Thus, Section 68.3(b)(1) does not authorize changing the demarcation point for an existing building to the minimum point of entry. Such a change can occur only pursuant to Section 68.3(b)(2), i.e., if the building owner makes major additions, modifications or rearrangements in existing wiring.

Accordingly, please provide us with information showing that the demarcation point was in effect prior to August 13, 1990. In addition, please advise us whether you are taking the position that repairing or replacing the conduit constitutes a major addition, modification, or rearrangement of existing wiring. If you are taking that position, please provide the basis for your position.

### III. Wiring Plans

Pursuant to 47 CFR §68.105(d)(4), you are required to provide plans relating to the wiring for the Project. Certain costs may be passed on to the Association. We had asked you in our letter dated February 27, 2003 to provide us with the costs for providing the plans for the wiring between the basement of the King Tower and the street. We have not received the information.

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<sup>1</sup> Section 68.3(b)(1). By contrast, for new multiunit installations (including major additions or rearrangements of existing wiring) carriers must either adopt a policy of placing the demarcation point at the minimum point of entry, or leave establishment of the demarcation point or points to the building owner. See Section 68.3(b)(2).

<sup>2</sup> See Order and FNPRM, 5 FCC Rcd at 4693. See also Section 68.3(b)(1)-(2).

Ms. Lynette Yoshida  
July 28, 2003  
Page 3

If you should have any questions, please do not hesitate to contact me.

Very truly yours,



for RICHARD S. EKIMOTO  
FOR  
ELISHA, EKIMOTO & HARADA

RSE:smtw:G:\CLIENT\Q\QUEENEMM.GAR\GM\Verizon Hawaii 072803 ltr re damaged conduit.wpd

cc: AOAQ Queen Emma Gardens  
c/o Ms. Jeania Schaper



Verizon Hawaii Inc.  
P.O. Box 2200  
Honolulu, HI 96841

June 18, 2003

Mr. Richard S. Ekimoto  
Elisha Ekimoto & Harada – Attorneys At Law  
1132 Bishop Street Suit 902  
Honolulu, Hawaii 96813-2830

**Subject: AOA Queen Emma Gardens Telephone System**

Dear Mr. Ekimoto:

Thank you for your recent letter regarding the water leakage into the King Tower basement of the Queen Emma Gardens Condominium complex. The manager Mr. Lambert Kia informed us of this concern last fall. We had dispatched our engineers then to assess the situation at that time and this is what was discovered.

Physically, the path in question starts at a Verizon Manhole on Nuuanu Avenue. Two 4" conduits leave this manhole and enter a 2'x 4' pullbox on the sidewalk. Two conduits leave this pullbox and enter the King Tower basement's telephone cabinet. Although there was moisture in the basement telephone cabinet indicating leakage, the pullbox was dry. The conduits that run between the manhole and the pullbox are not submerged in water. Based on this it was determined that the source of water in the conduit does not originate from Verizon Hawaii support structures in the public right of way. Verizon Hawaii is only responsible to maintain and upkeep its support structures outside private property.

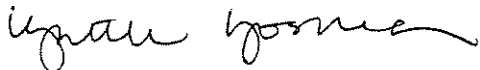
For multi-unit buildings in Hawaii, Verizon Hawaii is responsible to maintain and repair wiring to the first jack in each unit. This is our demarcation point. For the Queen Emma Towers, the main feed cables enter the complex for the King and Queen Towers through the above mentioned support structures. These cables terminate in the telephone cabinet in the King Tower basement where the water leakage is occurring. The cables continue on through the basement to the service the Queen Tower where there is no water leakage. A distribution cable rises from these entry points to service the above floors. Verizon Hawaii maintains these cables and the inside wiring to the first jack of each unit. There is no Minimum Point of Entry for these buildings. The water leakage occurring in the King Tower basement is coming from the conduit that enters the telephone cabinet, not from these cables.

Mr. Richard S. Ekimoto  
June 18, 2003  
Page 2

When we spoke to Mr. Kia last fall regarding solutions to this problem, it was requested that the condominium would provide a new pair of 4" conduits from the pullbox in the sidewalk on Nuuanu Street into the basement telephone cabinet in the King Tower. Verizon Hawaii will then replace the main feed cables into the complex and re-terminate them in the King Tower basement. The original feed cables in the leaking conduits would then be removed and the conduits sealed. Verizon Hawaii has submitted a cost estimate to do this cable work to Mr. Kia on September 6, 2002. Mr. Wayne Fujii of Alaka'i Mechanical was subsequently faxed written specifications to follow when building this new conduit run. No further updates were received on this matter until your correspondence dated February 27.

I hope this helps to clarify the current situation regarding your inquiries. Should there be any questions, please call Grant Torigoe at 840-2970.

Sincerely,



Lynette Yoshida  
Section Manager – Central/Maui  
Network Engineering and Planning

c: File – 1025 Alakea

**Elisha Ekimoto & Harada**  
Attorneys At Law ♦ A Law Corporation

G. Stephen Elisha  
Richard S. Ekimoto  
Arlette S. Harada

Deidree Y. M. K. Sakai  
Patti M. Nakaji

February 27, 2003

RECEIVED  
MAR 03 2003

Ms. Lynette Yoshida  
Verizon Hawaii, Inc.  
P.O. Box 2200  
Honolulu, Hawaii 96841

FOURSTONE PROPERTIES, LTD.

Re: **AOAO Queen Emma Gardens Telephone System**

Dear Ms. Yoshida:

Our office represents the Association of Apartment Owners of Queen Emma Gardens in the above captioned matter. As you know, there is an apparent water leak in the conduit somewhere between the street and the point that the conduit enters the King Tower Basement. You have taken the position that the break in the conduit is the responsibility of the Association to repair. If you have determined that it is too costly to determine the location of the break, how have you determined that it is the Association's responsibility to repair? It appears to us that it is more likely that the break is the responsibility of Verizon Hawaii rather than the Association.

In addition, we would like some additional information about the telephone installation. As you know, Federal Communications Commission Order FCC 97-209 and regulations (47 CFR §68 et. seq.) establishes that for multi-unit buildings in existence prior to August 13, 1990, telephone service providers are to follow established demarcation points for maintenance and repair. The point of demarcation must be pursuant to a reasonable and nondiscriminatory standard operating practice. Please provide us with information on when you established the demarcation point and details of your standard operating practice. In addition, please provide us with your interpretation of the location for the Minimum Point of Entry ("MPE") for the Project. If you believe that there has been major additions, modifications, or rearrangements in existing wiring, please provide details on the date and any written verification of the major additions, modifications, or rearrangements in existing wiring.

Pursuant to 47 CFR §68.105(d)(4), you are required to provide plans relating to the wiring for the Project. Certain costs may be passed on to the Association. Please provide us with the costs for providing the plans for the wiring between the basement of the King Tower

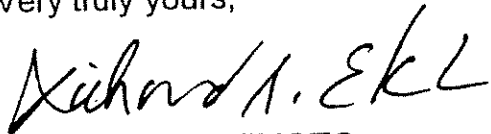


Ms. Lynette Yoshida  
February 27, 2003  
Page 2

and the street.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard S. Ekimoto". The signature is fluid and cursive, with the first name "Richard" being more prominent than the last name "Ekimoto".

RICHARD S. EKIMOTO  
FOR

ELISHA, EKIMOTO & HARADA

RSE:smtw:G:\CLIENT\Q\QUEENEMM.GAR\GM\Verizon Hawaii 022703 ltr re damaged conduit.wpd

cc: AOAQ Queen Emma Gardens  
c/o Ms. Jeania Schaper ✓